

August 15, 2008

Congressional Committees

Subject: Military Personnel: Improvements Needed to Increase Effectiveness of DOD's Programs to Promote Positive Working Relationships between Reservists and Their Employers

Since September 11, 2001, the Department of Defense (DOD) has relied on more than 650,000 members of the National Guard and Reserve to support operations at home and abroad. As demobilized reservists¹ return to civilian life and their civilian employment, the difficulties some face in maintaining positive working relationships with their employers is an area of interest. Maintaining employers' continued support for their reservist employees will be critical if DOD is to retain experienced reservists in these times of longer and more frequent deployments.

The employment and reemployment rights of service members as they transition between their federal duties and their civilian employment are governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994.² Education of reservists and employers about USERRA is primarily conducted through DOD's office of Employer Support of the Guard and Reserve (ESGR), which serves as DOD's focal point in managing the department's relations with reservists and their civilian employers. In past years, ESGR's focus was on educating service members concerning their employment rights under USERRA. Generally, service members are entitled to the reemployment rights provided by USERRA, including entitlement to reinstatement by their civilian employers consistent with the statute, if they meet certain eligibility requirements set out in the act. In fiscal year 2005, ESGR shifted its focus to educating employers. The new focus better aligns with ESGR's mission—to gain and maintain support for employee military service from all public and private employers of the men and women of the National Guard and Reserve. To fulfill its mission, ESGR has developed and implemented a number of outreach efforts to help gain employer support.

The Military Reservists and Veteran Small Business Reauthorization and Opportunity Act of 2008³ directed the Comptroller General of the United States to report to the Senate Committee on Armed Services, the Senate Committee on Small Business and

¹ For the purposes of this report, the terms reserve components and reservists refer to the collective forces of the Army National Guard, Air National Guard, Army Reserve, Air Force Reserve, Navy Reserve, and Marine Corps Reserve.

² Pub. L. No. 103-353 (1994), as amended, codified at 38 U.S.C. §§4301-4334.

³ Pub. L. No. 110-186, §207 (2008).

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Entrepreneurship, the House Committee on Armed Services, and the House Committee on Small Business by August 15, 2008, on the options for promoting positive working relationships between reservists and their employers, including assessing options for improving the time in which employers of reservists are notified of a call to active duty other than training. Accordingly, we examined the extent to which DOD has (1) taken steps to inform reservists of their obligations and responsibilities to their employers to provide timely notification of a call to active duty, and (2) developed initiatives to promote positive working relations between reservists and their employers. We also were directed to determine whether there has been a reduction in the hiring of reservists by business concerns because of (1) any increase in the use of reservists after September 11, 2001, or (2) any change in any policy of DOD relating to reservists after September 11, 2001.

To address our first objective, we examined policy and guidance describing DOD's reserve component processes and procedures for informing reservists of their responsibilities and obligations to their employers. We also analyzed DOD Status of Forces Surveys on areas related to advance notice to reservists and other matters concerning reserve component members. We assessed the survey data for reliability and found the data to be sufficiently reliable for the purposes of this report. We held interviews with key DOD officials and with a nonprobability sample of employers of reservists. Because this was a nonprobability sample of employers, the results of these interviews are not generalizeable to the general population of reservist employers. Further, we conducted focus groups with reservists in three states to discuss the amount of advance notice being provided both to reservists by DOD and to employers by reservists. These focus groups were based on a nonprobability sample and the results from these focus groups are not generalizeable to the population of reservists. To select participants for our focus groups, we chose from units with the following characteristics: (1) Army National Guard and Army Reserve units (which comprise the majority of total reservists), (2) Reserve units consisting of 100 or more personnel, (3) units that have deployed and redeployed back to the United States since January 1, 2007, and (4) units that conducted weekend drills during the period May 5, 2008, through July 28, 2008. We conducted a total of 10 focus groups in three states (Kentucky, North Carolina, and Virginia) with a total of 50 volunteer participants. We selected employers of reservists for our structured interviews using DOD's civilian employee information (CEI) database. We selected employers from this database to include a mix of both small and large companies based on number of employees, both governmental agencies and private/nonprofit companies, civilian employers of reservists from each reserve component, and employers in states with a heavy concentration of reservists. We selected from those employers deemed to have a high degree of automated matching accuracy by Dun & Bradstreet.⁴ From the employers who met the above criteria, we randomly selected 77 employers to contact, and ultimately completed interviews with 11 employers. We found this data to be sufficiently reliable for our selection purposes.

⁴Dun & Bradstreet, an organization that maintains a database of more than 130 million business records, reviews DOD's civilian employer data and generates a maximum confidence code denoting an entry's degree of accuracy. For the purposes of our review, entries with a confidence code of 7 or higher were considered more reliable.

For our second objective, we analyzed ESGR outreach programs, initiatives, policies, procedures, and memoranda of understanding that address the current activities being taken to strengthen reservist/employer working relations. During our structured interviews and focus groups, we discussed in detail the outreach programs and efforts being carried out. Finally, to determine whether there has been a reduction in the hiring of reservists since September 11, 2001, we questioned the Department of Labor, DOD, and ESGR about any data they may have collected or analyses they may have done to examine any such reductions. We also reviewed DOD policies and specifically questioned participants in the focus groups and structured interviews about any changes in hiring practices or policies that may have occurred.

We conducted this performance audit from April 2008 through August 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Further details on our scope and methodology can be found in enclosure I.

Results in Brief

DOD has taken steps to inform reservists of their obligations and responsibilities to their civilian employers when they are mobilized, but it does not collect data to assess the effectiveness of its efforts. In order to qualify for rights under USERRA, reservists must generally provide their employers with advance notice prior to departure for military duty, and we found that the amount of advance notice provided to employers varies. The steps DOD has taken to inform reservists of their obligations and responsibilities to their employers include (1) implementing policies and procedures that encourage reservists to provide advance notification, and to provide this notification in writing, and (2) providing outreach and education for reservists of obligations and responsibilities under USERRA through ESGR. Despite these efforts to inform reservists of their obligations and responsibilities to provide advance notice to their civilian employers of a call to active duty, DOD does not determine whether its efforts (1) are helpful in informing reservists of their USERRA responsibilities, or (2) enable employers to receive advance notification of reservists' deployments because DOD does not collect data that would enable it to gauge the effectiveness of its efforts. DOD administers Status of Forces Surveys to reservists biannually to monitor the extent to which it informs service members about USERRA obligations and the occurrence of USERRA-related problems, but the surveys do not contain questions on the amount and type of notice that reservists provide to their employers. Since DOD regularly administers these already established surveys, the most effective way to provide DOD with pertinent information on advance notification without imposing a significant administrative burden or cost would be through these surveys. Until DOD collects data on both the amount and type of advance notice that reservists are providing to their employers, it will be unable to determine the effectiveness of its efforts to encourage and enable reservists to provide advance notice to their employers consistent with USERRA or determine if additional measures are required. Toward the completion of our review, officials at the Defense Manpower Data Center, the Defense activity which administers the biannual Status of

Forces Surveys, told us that they are planning to include questions in subsequent Status of Forces Surveys regarding the extent to which reservists are providing notification to their employers and whether the notifications are being given orally or in writing.

DOD has used ESGR as its focal point in establishing a strategic approach to promote positive working relationships between reservists and their employers, but it does not measure the efficiency and effectiveness of these efforts. While ESGR has established a strategic plan outlining its mission, goals, and objectives, ESGR has not yet established a performance plan to measure how well its efforts are achieving these goals. To help establish positive working relationships between reservists and their employers, ESGR has developed several ongoing outreach programs, such as employer briefings and statements of support, to gain support from employers of reservists. However, DOD does not know the extent to which these ESGR efforts are helping to achieve its mission because it lacks (1) an established performance plan to measure how well it is achieving its goals, (2) a follow-up mechanism to help maintain relationships with employers once employers have pledged their support, and (3) an outreach program specific to small business needs. Given ESGR's numerous outreach programs and efforts, it is difficult to establish a direct causal link between these efforts and their effectiveness. Our prior work has shown that key elements of a sound management approach include defining clear missions and desired outcomes, establishing implementation goals, measuring performance, and aligning activities with resources.⁵ Our past work on defense initiatives has shown the need for DOD to take a more strategic approach to decision making to ensure that investments are based on sound plans with measurable, realistic goals and time frames, prioritized resource needs, and performance measures to gauge progress.⁶ An annual performance plan should link the agency's mission, strategic goals, and program activities. In addition, according to ESGR's strategic plan and DOD Directive 1250.01,⁷ ESGR's mission is to "gain and maintain" support from employers of reservists. However, DOD does not determine the extent to which employer relations are maintained once statements of support are signed, because ESGR does not conduct follow-up activities that could help maintain established relationships with reservists' employers. Finally, ESGR's strategic plan states that it shall improve working relationships with employers by designing tailored products to meet their specific needs. Small business employers represent nearly 70 percent of selected reservists' employers.⁸ Many DOD officials have also acknowledged that small

⁵ See GAO, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformation*, GAO-03-669 (Washington, D.C.: July 2, 2003) and *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

⁶ See GAO, *Defense Business Transformation: Achieving Success Requires a Chief Management Officer to Provide Focus and Sustained Leadership*, GAO-07-1072 (Washington, D.C.: Sept. 5, 2007), and *Business Systems Modernization: DOD Needs to Fully Define Policies and Procedures for Institutionally Managing Investments* (Washington, D.C.: May 11, 2007).

⁷ Department of Defense Directive 1250.01, National Committee for Employer Support of the Guard and Reserve (NCESGR), (Apr. 13, 2004).

⁸ Department of Defense, Office of the Under Secretary of Defense for Personnel and Readiness, *Working Group Interim Report to Congress: Special Working Group on Transition to Civilian Employment of National Guard and Reserve Members Returning from Deployment in Operation Iraqi Freedom and Operation Enduring Freedom*, Washington D.C. (Nov. 2007).

businesses are particularly affected by deploying reserve employees. However, ESGR has not implemented any specific programs or activities that explicitly target small businesses. Unless DOD takes actions to measure how well its efforts are achieving its goals—such as developing a performance plan, conducting follow-up activities, or implementing programs that target small businesses—DOD cannot determine whether its efforts to improve the working relationships between reservists and their employers effectively address the needs of reservists' employers.

We were unable to determine the extent to which there has been a reduction in the hiring of reservists caused by the increase in the use of reservists after September 11, 2001, or caused by any changes in any of DOD's policies concerning reservists after September 11, 2001, due to a lack of available data related to this issue. We were unable to identify any studies or analyses from either DOD or the Department of Labor to indicate whether employers have been hiring fewer reservists since September 11, 2001. During the course of our review, we identified a number of changes to DOD policies relating to reservists since September 11, 2001. For example, in early 2007 DOD rescinded a policy that set a cumulative limit of 24 months of being involuntarily mobilized over the course of a reservist's military career and instituted a policy of involuntarily mobilizing reservists for a maximum of 1 year at a time. However, we were unable to determine how these policy changes, or any other policy changes related to the use of reservists, affected the hiring of reservists, if at all. The absence of such data or analyses precludes us from determining the impact, if any, of any changes in DOD's policies concerning the hiring of reservists. Even if a reduction in the hiring of reservists had occurred, we would be unable to determine what factors contributed to the decline.

To improve the effectiveness of DOD's efforts, we are making recommendations that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness to (1) establish an annual performance plan, (2) conduct regular and recurring follow-up activities, and (3) develop initiatives to outreach to small businesses. In commenting on a draft of this report, the Department partially concurred with these three recommendations. The department also provided several general comments and one technical comment that we considered and incorporated, as appropriate. The department's comments and our evaluation of those comments are discussed in detail in a later section of this report. DOD's written comments are reprinted in enclosure II.

Background

In 1994 Congress passed the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, which protects individuals as they transition between their federal duties and their civilian employment. USERRA provides employment and reemployment rights for service members, including those called up from the Reserves or National Guard, and prohibits employer discrimination based on military service or obligation. In order to be eligible for the rights provided by USERRA, service members must meet certain eligibility requirements which include, among other things, providing their employers with proper notice prior to their departure for military service, and reporting back to work or applying for reemployment in a timely manner. Provided service members meet their USERRA requirements, they are

entitled to a number of benefits including, in most cases, prompt reinstatement to the positions they would have held if they had never left their employment, or to positions of like seniority, status, and pay. Reservists who have incurred or aggravated a medical disability during their military service are guaranteed certain reemployment protections as well, and employers are required to make certain efforts to accommodate the service member's disability. USERRA applies to persons who perform service, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. USERRA applies to virtually all public and private employers in the United States regardless of size, and includes federal, state, and local governments, as well as for-profit and not-for-profit private sector firms.

Enforcement and implementation of USERRA involves several federal agencies with specific—and sometimes overlapping—outreach, investigative, or enforcement roles. For example, USERRA gives the Secretary of Defense, the Secretary of Labor, and the Secretary of Veterans Affairs shared responsibility for taking steps the Secretaries determine are appropriate for providing outreach to inform service members and their respective employers about their rights, benefits, and obligations under USERRA.⁹ Reservists have a number of obligations under the act that must be met if they are to be eligible for USERRA rights and benefits. This includes the obligation to provide their employers with advance notice prior to departure for military duty unless an exception applies.

The Assistant Secretary of Defense for Reserve Affairs has overall supervisory responsibility for matters that involve the reserve components, and serves as the principal staff assistant and advisor to the Secretary of Defense on reserve component matters. The Assistant Secretary oversees the activities of the National Committee for the Employer Support of the Guard and Reserve.¹⁰ Employer Support of the Guard and Reserve (ESGR) was established in 1972 and has been tasked by DOD Directive 1250.01 to “promote both public and private understanding of the National Guard and Reserve in order to gain employer and community support for the Reserve components as demonstrated through implementing personnel programs, policies, and practices that encourage employee and citizen participation in the National Guard and Reserve.” ESGR’s mission is twofold. First, it educates service members about their rights and responsibilities under the law. This is accomplished by providing annual unit, mobilization, and demobilization briefings; supplying informational handouts; assigning military liaisons in units as a support contact; and maintaining an extensive Web site with information about USERRA.¹¹ Second, it strives to gain and maintain employer support for reservists. This is done by recognizing outstanding support, increasing awareness of the law through employer outreach programs, and resolving conflicts through mediation. ESGR has full-time paid staff at its headquarters in Arlington, Virginia, including 36 military employees,

⁹38 U.S.C. §4333.

¹⁰ The National Committee for Employer Support of the Guard and Reserve is sometimes abbreviated NCESGR, but throughout this report we use the more common ESGR abbreviation to include both the headquarters and volunteer field staff of the organization.

¹¹For more information on ESGR please go to www.esgr.org.

28 civilian employees, 8 contractors, and 94 contractor field support personnel. ESGR performs most of its work through volunteers and specially trained ombudsmen who act as informal mediators for USERRA issues that arise between service members and their employers. It operates through a network of more than 4,500 volunteers throughout 56 committees located in each state, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and Europe. With this large network of volunteers and ombudsmen to support reservist/employer relations, ESGR's task is to support and advise employers, large and small, and reservists. For fiscal year 2008, ESGR has a budget of approximately \$13.1 million.

A number of surveys and reports have been conducted that analyze reservist/employer relations. DOD has periodically contracted with the Institute for Defense Analyses (IDA), a nonprofit corporation that administers federally funded research and development programs, to publish reports and studies that examine reservist/employer relations. In addition, the Defense Manpower Data Center collects, archives, and maintains manpower and personnel data, as well as financial databases, for DOD. In this capacity, the Defense Manpower Data Center administers an annual survey to civilian personnel, biannual surveys to selected reserve personnel, and active duty surveys three times a year. These surveys provide relevant and important data on such issues as advance notice to reservists, the work of ESGR; and other matters concerning civilian, active duty, and reserve component members.

We have issued prior reports related to employer support, USERRA, and in general the need for results-oriented government. In a 2002 report, we addressed DOD's management of relations between reservists and their employers.¹² Among other things, we found that ESGR did not have data to determine the effectiveness of its outreach and mediation efforts. DOD concurred with many of our recommendations and has taken action on a number of them. For example, DOD developed the Civilian Employer Information database to assist in DOD's outreach efforts to employers. This database contains a list of reservists' civilian employers, which can help DOD reach out to these employers and gain support. In addition, we have issued a number of reports that address the need for federal agencies to manage for results. For example, in 2004 we issued a report that examined, among other things, the challenges agencies face in using performance information in management decisions and how the federal government can continue to shift toward a more results-oriented focus.¹³

DOD Has Taken Steps to Inform Reservists of Their Obligations and Responsibilities to Notify Their Employers When They Are Called to Active Duty, but Does Not Assess Its Effectiveness

DOD has taken steps to inform reservists of their obligations and responsibilities to provide advance notification to their civilian employers when mobilized, but it does not collect data to gauge the effectiveness of its efforts. To qualify for protection

¹²GAO, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers*, GAO-02-608 (Washington, D.C.: June 13, 2002).

¹³GAO, *Results-Oriented Government: GPRA Has Established a Solid Foundation for Achieving Greater Results*, GAO-04-38 (Washington, D.C.: Mar. 10, 2004).

under USERRA, reservists must generally provide their employers with advance notice prior to their departure for military duty. The steps DOD has taken to inform reservists of their obligations and responsibilities to their employers include (1) implementing policies and procedures aimed directly at the issue of advance notification, and (2) providing outreach and education through ESGR concerning reservists' obligations and responsibilities under USERRA.

First, DOD has established policies and procedures to inform guard and reserve members of their obligations and responsibilities to their employers. Specifically, DOD Instruction 1205.12 assigns responsibilities and prescribes procedures for informing service members of their civilian employment and reemployment rights, benefits, and obligations under USERRA.¹⁴ This instruction requires that the service members be advised that DOD strongly encourages reservists to provide advance notice in writing to their civilian employers of a pending mobilization with the explanation that providing written advance notice is preferable to verbal advance notice since it is easier to establish that this basic prerequisite to retaining reemployment rights has been fulfilled. The ESGR USERRA annual briefings presented at the unit level also point out that written notification would be better than verbal notification. However, in our focus groups with reservists, we found that some individuals provided only verbal notice of an upcoming call to active duty to their civilian employer. The instruction also requires service members to be advised that notice, whether verbal or written, should be provided as early as is practicable and that DOD strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so. According to the instruction, the advance notice requirement can be met by providing the employer with a copy of the unit's annual training schedule or by preparing a letter. A sample standardized letter is provided in the instruction and on the ESGR Web site. In addition, the Navy Reserve provides specific guidance to its members on advance notice to employers.¹⁵ This guidance also strongly encourages reservists to give their employers as much notice as possible to enable employers to make the necessary arrangements to cover the reservists' work in their absence. The guidance also instructs Navy reservists to give notice in writing and to keep a copy in case a question arises as to whether notice has been given.

Second, DOD has assigned ESGR responsibility for conducting outreach and education programs and activities to educate and inform guard and reserve members of their obligations and responsibilities under USERRA. ESGR accomplishes its outreach and education mission through several mechanisms, such as a toll-free information line, informational brochures and handouts, a Web site, individual and group briefings, and military unit liaison representatives. ESGR conducts thousands of annual briefings, most often at the unit level, to inform reservists and their employers about their rights and responsibilities under USERRA. In fiscal year 2007, more than 67,000 employers and approximately 235,000 reservists were briefed on USERRA and ESGR services. The ESGR Web site contains links that direct

¹⁴DOD Instruction 1205.12, Civilian Employment and Reemployment Rights of Applicants for, and Service Members and Former Service Members of the Uniformed Services, (Apr. 4, 1996) incorporating change (Apr. 16, 1997).

¹⁵Bureau of Naval Personnel Instruction 1001.39F (Sept. 17, 2007).

individuals to the USERRA statutes as well as explanations of the law. In addition to these briefings and other outreach efforts, every reserve component unit within each state is to have an assigned military liaison who serves as the primary link between the reserve components and ESGR, assists their assigned commands/units in developing and executing employer relations, and provides USERRA training and materials.¹⁶ The liaison also helps train the command's or unit's appointed employer relations representative if requested so that this representative can provide employer relations and USERRA training. Consistent with ESGR's previously mentioned outreach efforts in conjunction with related resources available to the reservists, we observed in our focus groups that most reservists were aware of their obligation to provide advance notice to employers.

Despite these efforts to inform reservists of their obligations and responsibilities to provide advance notice to their civilian employers of a call to active duty, DOD does not determine whether its efforts are helpful in informing reservists of their USERRA responsibilities or enabling employers to receive advance notification of reservists' deployments. DOD does monitor the extent to which it informs service members of their USERRA obligations and the occurrence of USERRA-related problems by including questions on these areas in its Status of Forces Surveys (SOFS), which are periodically conducted to identify issues that need to be addressed or monitored. For example, according to a 2006 DOD SOFS of guard and reserve members, most reserve component soldiers have been briefed on employment rights and responsibilities; an estimated 79 percent of those responding said that they had been briefed on USERRA at least once.

One of the first steps to ensuring that employers are adequately notified of a reservist's call to active duty is ensuring that reservists themselves are adequately notified by DOD of an impending deployment or mobilization. DOD provides informal "alerts" (warning orders) prior to issuing formal notification orders. These alerts provide additional advance notice to reservists that their unit may soon be called to active duty. On its SOFS, DOD has included questions to measure the extent to which reserve component members receive advance notice prior to a call to active duty. According to the 2007 SOFS, an estimated 76 percent of reservists had received an informal alert notice; of those, an estimated 77 percent received notice of 30 days or more. However, formal notice from DOD is provided much closer to the mobilization date; an estimated 47 percent of reservists reported on the 2007 SOFS that they received written, formal orders 30 days or more prior to having to report for active duty. Thus, a reservist might receive an informal alert of an upcoming activation several months in advance, but might not receive formal orders until a month prior to activation. According to DOD officials, the informal alerts should allow employers to better plan for when reservists will not be available to them. We noted in a prior report that the Office of the Assistant Secretary of Defense for Reserve Affairs emphasized the need to provide orders well in advance of deployments, in part so that employers could be notified promptly.¹⁷ In addition, the Assistant Secretary of

¹⁶National Committee Employer Support of the Guard and Reserve Instruction 1250.31, Military Liaison Program (Nov. 16, 2005).

¹⁷GAO-02-608.

Defense for Reserve Affairs warned that “unjustifiably late notification may harm the working relationships between reservists and their employers.”

However, we found that these informal alerts provided by DOD to reservists may not necessarily translate into earlier notification to employers. In focus group discussions we conducted with soldiers who had been redeployed back to the United States since the beginning of 2007, they noted that deployment plans frequently changed. Because plans changed so often, there was general agreement in several of our focus groups that it was not a good idea to share the informal alert information with an employer. Some reservists in some of the focus groups said that they had to strategically plan how and when to share information and notice with employers because of fears that employers might react negatively; some reservists perceived they could be passed over for a promotion and others felt they should not tell their employer of an upcoming call to active duty too far in advance out of fear of being written out of the company’s future plans. In a few focus groups there was general agreement that the reservists would each provide their respective employers no more than 30 days notice no matter how much formal or informal notice they had received from DOD.

DOD, however, does not collect data that would enable it to gauge the effectiveness of its efforts because DOD has not developed procedures to identify the amount or the form of notice, written or verbal, that reservists are actually providing to their civilian employers. Consequently, DOD is unable to determine either the amount of notice reservists are regularly providing to their employers or the form (written or verbal) in which this advance notice, if any, is being provided. Given that DOD’s Status of Forces Surveys do not specifically address the issue of employer notification form (written or verbal), DOD is unable to determine the percentage of individuals that provide only verbal notice to their employers. While DOD is not required to collect data that identify the amount or the form of notice provided to civilian employers, the collection of these data could help DOD gain a better understanding of the amount and type of notice reservists are actually providing to their civilian employers. The collection of these data from civilian employers of reservists could potentially be both cost prohibitive and time consuming. DOD currently has a survey mechanism in place (DOD’s biannual Status of Forces Surveys) capable of capturing these data. These surveys already capture data about when reservists receive alerts and mobilization orders, so there would be context for adding questions pertaining to reservists’ notification of mobilization to their civilian employers. Thus, DOD’s Status of Forces Surveys may be the most effective means to provide DOD with pertinent information on advance notification without imposing a significant administrative burden or cost. Additionally, adding these questions may provide DOD a valuable source for discovering any trends in either the amount of advance notice or form of notice being provided to civilian employers by reservists. Until DOD begins to develop procedures and to collect data on both the amount, as well as the type, of advance notice being given by most reservists to their civilian employers, it may be unable to measure the effectiveness of its efforts to inform service members of their benefits and obligations under USERRA or determine whether additional measures are required. Toward the completion of our review, officials at the Defense Manpower Data Center told us that they are planning to include questions in subsequent Status of Forces Surveys regarding the extent to which reservists are providing notification to their employers and whether the

notifications are being given orally or in writing. We will continue to monitor these efforts and the extent to which they contribute to DOD's effectiveness in improving reservists' notifications to their employers.

DOD Has Established a Strategic Approach with Many Outreach Initiatives to Promote Positive Working Relationships between Reservists and Employers, but Does Not Gauge the Effectiveness of Its Efforts

While DOD has used ESGR in establishing a strategic approach that includes many of DOD's outreach initiatives to help improve working relationships between reservists and their employers, it does not gauge the effectiveness of its efforts. Specifically, ESGR does not know the extent to which these outreach initiatives are helping achieve its mission because ESGR (1) lacks an established performance plan to measure how well it is achieving its goals, (2) does not have a mechanism in place to follow-up with employers to help maintain relationships once employers have pledged their support, and (3) lacks an outreach program specific to small business needs.

ESGR has been DOD's focal point in creating and instituting a strategic approach that includes many outreach initiatives to help improve working relationships between reservists and their employers. Table 1 provides some information on the different types of outreach initiatives used by ESGR to help gain employer support, which aids in promoting positive working relationships between reservists and their employers.

Table 1: Examples of ESGR Programs Aimed at Promoting Positive Working Relationships between Reservists and Their Civilian Employers

Program	Description
Boss Lifts	The employer is provided an opportunity to visit the reservist at his or her drill site to gain firsthand experience and an appreciation for the employee's military service. These events provide the employer with opportunities to directly observe the technical, organizational, team building, and leadership skills of their employees. They also provide employers with opportunities to observe military training, some of which may be directly related to their employee's civilian job.
Mass Market Outreach	ESGR uses public service advertising as available, in spaces such as billboards, and magazines. ESGR uses additional media outreach activities involving advertising and article placement to help promote ESGR as a resource and to highlight what employers are doing to help support reservists who are called to active duty.
Strategic Partnerships	Through strategic partnerships with the national headquarters and local chapters of the Chamber of Commerce, Society for Human Resource Management, National Federation of Independent Business, Small Business Administration, and Rotary Club, ESGR strives to educate employers about USERRA and the ESGR organization. According to an ESGR official, they are in the process of distributing a direct-mail publication "about ESGR" to all 250,000 members of the Society for Human Resource Management, and they have provided direct mail about ESGR to 15,700 members of the International Association of Chiefs of

Program	Description
	Police.
Employer Briefings	ESGR provides employer briefings as a forum for local employers, unit commanders, ESGR members, and community leaders to meet, network, and discuss issues that arise from employee participation in the National Guard and Reserves. The meeting site can be a local restaurant, hotel, service club, Chamber of Commerce, National Guard Armory, Reserve Center, or military installation. According to an ESGR official, in fiscal year 2007, ESGR field committees briefed 68,803 employers.
Awards Program	<p>Reservists can nominate their employers to receive sequential and progressive awards.</p> <p>The Patriot Award recognizes individual supervisors, not necessarily the employer organization as a whole. During fiscal year 2007, 15,124 employers were nominated. Nominated employers receive a Patriot Award certificate and accompanying lapel pin.</p> <p>The Above and Beyond Award honors employers of reservists who go above and beyond the requirements of USERRA, for example, an employer providing continuation of benefits or pay differential.</p> <p>The Pro Patria Award is the highest award that an ESGR field committee may bestow upon employers within its purview. Employers who are previous recipients of both the Patriot Award and the Above and Beyond Award, and have signed a statement of support, are eligible to receive the Pro Patria Award.</p> <p>The Freedom Award (The Secretary of Defense Employer Support Freedom Award) is given to exemplary employers in three categories: large business, small business, and the public sector. Reservists submit nominations, from which 15 are selected and forwarded to the Secretary of Defense. In fiscal year 2007, more than 1,000 reservists nominated their employers for this award.</p>

Sources: GAO analysis, Employer Support of the Guard and Reserve information.

Given ESGR's numerous outreach programs and efforts, it is difficult to establish a direct causal link between these efforts and their effectiveness. While these initiatives represent positive efforts to promote positive working relationships between reservists and their employers, ESGR does not know the extent to which these outreach initiatives are helping achieve its mission because ESGR (1) lacks an established performance plan to measure how well it is achieving its goals, (2) does not have a mechanism in place to follow-up with employers to help maintain relationships once employers have pledged their support, and (3) lacks an outreach program specific to small business needs. Our prior work has shown that key elements of a sound management approach include defining clear missions and desired outcomes, establishing implementation goals, measuring performance, and

aligning activities with resources.¹⁸ Our past work on defense initiatives has shown the need for DOD to take a more strategic approach to decision making to ensure that investments are based on sound plans with measurable, realistic goals and time frames, prioritized resource needs, and performance measures to gauge progress. To be able to assess the effectiveness of their activities and determine how well they are achieving their mission, organizations need to link established performance measures with set goals, as we have previously reported.

ESGR has established a strategic plan that provides a workable foundation for annual performance planning and reporting. ESGR's strategic plan outlines its mission, goals, and objectives. For example, ESGR's August 22, 2007, strategic plan states that ESGR is to conduct focused outreach efforts to gain statements of support from all identified civilian employers of reservists by 2011; this equates to a goal of obtaining an average of 20 percent of these employers in each year of the period covered by the plan. During fiscal year 2007, more than 20,644 employers signed statements of support. ESGR collects and reports some data on its outreach efforts. The organization's state field committee representatives prepare quarterly reports on the various outreach activities performed. These quarterly reports include data on some of the programs listed in table 1. While all events listed may not occur regularly in all locations, data on the different types of outreach efforts to help promote positive working relationships between reservists and their civilian employers are reported to ESGR. For example, field committee reports have included data on the number of media events, trade shows, conferences, symposiums, boss lift events, and awards for the quarter. ESGR officials noted that the statements of support signings are their primary outreach effort to gain employer support, and explained that these statements of support often are acquired as a result of other ESGR outreach efforts. For example, one field committee representative we spoke with stated that she had attended a symposium sponsored by the Society for Human Resource Management and obtained 20 to 25 statements of support from employers.

Despite its collecting and reporting data on these outreach efforts, ESGR does not have an annual performance plan in place to measure how well its outreach efforts are achieving its goals. As a step in that direction, ESGR has recently issued its first annual report.¹⁹ ESGR's annual report provides information on, among other things, the organization's guiding principles and organizational structure, a historical overview, and some statistics on its outreach programs. Nonetheless, ESGR's 2007 annual report provides data on only some of its activities; it does not include performance measures to demonstrate the effectiveness of ESGR's outreach efforts. As previously mentioned, ESGR established a 5-year goal (by 2011) to obtain statements of support from 100 percent of the employers it has identified. However, the annual report does not discuss the progress being made towards achieving this goal. Without a performance plan, ESGR may not be able to evaluate the extent to which it is meeting its goals, or identify successes as well as potential problem areas that might require adjustments to these goals.

¹⁸GAO-03-669.

¹⁹*National Committee for Employer Support of the Guard and Reserve Annual Report*, (Arlington,VA: Fiscal Year 2007).

While ESGR's mission is to "gain and maintain" support from employers of reservists, it does not have a follow-up-mechanism in place to help maintain the relationships established with those employers who have signed statements of support. During the course of our review, we found that once a statement of support is signed by an employer, there is no follow-up-mechanism in place to maintain the established employer relationship. DOD officials acknowledged that they do not have a follow-up mechanism in place that can help maintain employer support; they stated their belief that such an effort would be beneficial. Until a follow up mechanism is in place, DOD is unable to determine whether meeting its goals for employer signings of statements of support shows real progress toward developing effective employer relationships and whether it is able to fully attain its goal of both gaining and maintaining support from employers.

Furthermore, ESGR lacks a systematic approach for identifying problem areas that could help to target outreach efforts. For example, while DOD conducts outreach to its general population of employers, DOD has not developed an approach for targeting small businesses. A November 2007 DOD report to Congress found that nearly 70 percent of employers of selected reservists have fewer than 100 employees.²⁰ ESGR's strategic plan states that the organization will conduct an environmental assessment of customer needs through targeted outreach and analysis. The strategic plan also states that ESGR shall improve working relationships with employers by designing tailored products to meet their specific needs. Multiple DOD officials have acknowledged that small businesses are especially affected by the deployment of their reserve employees; these officials noted that small businesses were one of the main challenges or obstacles that DOD was facing. Additionally, during interviews we held with selected employers (both large and small), some of the small business owners told us that their business suffered while their reservist employee was deployed. Some employers said it cost them additional overtime to compensate other workers to replace the deployed reservists, and some said they had to move employees around to areas that they were not as familiar with or trained in. Additionally, a small business owner told us that the replacements were not as good as the reservist they had replaced. However, ESGR has not established any outreach programs specifically targeted to small business owners that could address these concerns and potentially improve working relationships between reservists and their small business employers. Until ESGR develops a focused effort to target small businesses, it may be unable to address the unique needs of small businesses, which are the majority of reservists' employers.

Data Unavailable to Identify Any Reductions in the Hiring of Reservists Since September 11, 2001

We were unable to determine the extent to which there has been any reduction in the hiring of reservists because of the increase in the use of reservists after September 11, 2001, or because of any changes in DOD's policies concerning reservists after

²⁰Department of Defense *Working Group Interim Report to Congress: Special Working Group on Transition to Civilian Employment of National Guard and Reserve Members Returning from Deployment in Operation Iraqi Freedom and Operation Enduring Freedom*, Office of the Under Secretary of Defense for Personnel and Readiness (November 2007).

September 11, 2001, due to the lack of available data related to this issue. We discussed with DOD and Department of Labor officials the extent to which they maintained data on the hiring of reservists since September 11, 2001, and whether there were changes in any of DOD's policies relating to reservists after September 11, 2001. Officials were not aware of any data related to a reduction in the hiring of reservists. We also asked participants in our focus groups if they were aware of any reduction in hiring of reservists since September 11, 2001. While the results of these discussions were limited by the small number of participants in the focus groups, the general consensus of the reservists was that they had not noticed any changes in the hiring of reservists since September 11, 2001. Some focus group participants felt that employers were hiring fewer reservists, but said they could not substantiate their beliefs. Also, in discussions with employers, which were also limited by the small number of participants, the employers we spoke with all indicated that they had not seen any reductions in their companies' hiring, or any changes in their hiring policies, with respect to reservists since September 11, 2001. However, these focus groups and discussions were based on a nonprobability sample and are therefore ultimately not generalizable; the data do not help determine the extent to which there was a reduction in the hiring of reservists since September 11, 2001.

In the course of our work, we identified a number of DOD policy changes relating to reservists since September 11, 2001, but we were unable to determine the extent to which these policy changes or others may affect the hiring of reservists. For example, on January 19, 2007, the Secretary of Defense announced that reserve component personnel will now be mobilized for a maximum of 12 months at any one time with discretion given to the services to exclude time for training needed for deployment and post-mobilization leave from that 12-month period. This is a change from the earlier policy that limited involuntary mobilizations of reservists to a total of 24 cumulative months. In addition to this policy change, the Under Secretary of Defense for Personnel Readiness Mobilization/Demobilization issues memoranda each time the President authorizes the involuntary call-up of Reserve Component members and has periodically issued other similar memoranda all of which the department says are designed to maintain employer support and to remind reservists of the requirement to provide notice to their employers. However, even if a reduction in the hiring of reservists had occurred after September 11, 2001, we would not be able to attribute any such decline to specific factors such as any changes in DOD policy. Absent such data or analyses, DOD has no way to know if there has been a reduction in the hiring of reservists since September 11, 2001. The absence of data also precludes any analysis to determine the impact, if any, on reservists.

Conclusions

DOD has taken steps toward informing reservists of their obligations and responsibilities to provide advance notification to their civilian employers before they are mobilized and improving working relationships between reservists and their employers, but it does not assess the effectiveness of these efforts. Until DOD begins to develop procedures and to collect data on both the amount, as well as the type, of advance notice being given by most reservists to their civilian employers, DOD will not be able to determine how well its efforts to inform reservists of their obligation to provide advance notice to employers are working or determine whether additional

measures are required. Furthermore, DOD and ESGR have developed many outreach initiatives to help improve working relationships between reservists and their civilian employers, but they do not assess the efficiency and effectiveness of these efforts. Without a performance plan and a clearly defined approach to evaluate and analyze the results of its outreach efforts, ESGR may be unable to evaluate the extent to which it is meeting its goals, or identify successes as well as potential problem areas that might require adjustments to these goals. Without a follow-up process to help maintain relationships established through the signing of statements of support, ESGR may be unable to determine whether it is making progress toward developing effective employer relationships or whether it is able to maintain established employer support. Finally, unless ESGR develops initiatives targeted to small businesses, the needs of the majority of civilian employers of reservists may not be fully addressed.

Recommendations for Executive Action

To gauge the effectiveness of DOD's actions to increase the likelihood that more progress will be made in promoting positive relationships with employers, we recommend that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness take the following three actions:

- establish an annual performance plan that develops and facilitates the implementation of performance measures on how well ESGR is achieving its goals,
- conduct regular and recurring follow-up activities on outreach efforts to maintain positive working relationships with employers who have previously signed statements of support, and
- develop initiatives to specifically conduct outreach efforts to small businesses that employ reservists.

Agency Comments and Our Evaluation

In addition to the three recommendations listed above, the draft report that we provided to DOD for review and comments included a fourth draft recommendation in which we recommended that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness to include questions in DOD's Status of Forces Surveys for reserve component members to determine the amount of notification being provided by service members to their civilian employers prior to activation and the extent to which mobilization notices are provided verbally versus in written form. DOD did not concur with this draft recommendation and stated that the responsibility for employer notification rests ultimately with the service member and should not be used to judge the effectiveness of DOD's outreach efforts. While we recognize that the responsibility for employer notification rests ultimately with the service member, DOD has a responsibility to inform reservists of their obligations under USERRA, which would include the obligation to generally provide their

employers with advance notice prior to departure for military duty. Moreover, we believe that a very important element to developing and maintaining employer support for members of the Guard and Reserves is to ensure that these service members are aware of their responsibilities to their employers and are following through on these responsibilities. As we stated in the report, we believe that the most effective means for continually monitoring the effectiveness of the department's outreach efforts to inform service members of their responsibilities is through the biannual Status of Forces Surveys. However, because officials at the Defense Manpower Data Center told us toward the completion of our review that they are planning to include questions in subsequent Status of Forces Surveys regarding the extent to which service members are providing notification to their employers and whether the notifications are being given verbally or in writing, we omitted this draft recommendation from the final report. Nonetheless, we continue to believe this initiative has merit, and we encourage its full implementation. The department partially concurred with the three remaining recommendations. A detailed discussion of the department's comments regarding these three recommendations and our evaluation of those comments is included in the paragraphs below. DOD's written comments are reprinted in enclosure II.

The department also provided several general comments and one technical comment that we considered and incorporated, as appropriate. Specifically, DOD stated in its comments that the Department of Labor may be able to provide data on the number of USERRA complaints filed with that agency involving discrimination. Officials at the Department of Labor told us that they could provide data on the total number of USERRA complaints filed, but not on the number of complaints filed in specific categories such as discrimination. In addition, DOD stated in its comments that the department does not agree with the statement in our report that ESGR does not collect data to assess the effectiveness of its efforts and does not measure the efficiency and effectiveness of its efforts. As we state in our report, however, while ESGR has a Strategic Plan that includes specific goals and objectives, it lacks an established performance plan to measure how well it is achieving its goals. DOD notes in its comments that ESGR is developing an Operational Plan to supplement its Strategic Plan and to provide additional guidance and measures. DOD also stated in its comments that in our discussion of the changes in defense policies since September 11, 2001, regarding the hiring of reservists, we make reference to only one specific policy memo. The department identified other relevant policy memos which we have added in the report. Lastly, DOD stated in its technical comment that it is not aware of the role that the Department of Veterans Affairs has in the enforcement of USERRA. As we state in our report, under the provisions of USERRA, the Department of Veterans Affairs has a role in providing outreach to inform service members and respective employers about service members' rights, benefits, and obligations. The statement in our report refers to their outreach responsibility under §4333 of USERRA, which gives the Secretary of Defense, the Secretary of Labor and the Secretary of Veterans Affairs responsibility for taking steps the Secretaries determine to be appropriate for providing outreach to inform service members and their respective employers about their rights, benefits, and obligations under USERRA.

The department partially concurred with our first recommendation that the Under Secretary of Defense for Personnel and Readiness establish an annual performance plan that develops and facilitates the implementation of performance measures on how well ESGR is achieving its goals. In response to this recommendation, DOD specifically commented that the ESGR Strategic Plan includes measurable, realistic, and time-sensitive objectives and performance measures, and that the department is currently engaged in an effort to supplement the Strategic Plan with an Operational Plan to provide additional guidance and measures. As stated in our report, we agree that ESGR's Strategic Plan includes specific goals and objectives but we continue to believe that ESGR lacks specific performance measures and an established performance plan to measure how well it is achieving its goals. While we acknowledge that ESGR collects certain data elements related to their goals and objectives, as discussed in their comments, ESGR does not have an annual performance plan for measuring trends or periodically assessing its progress toward meeting its goals and objectives. For example, one of the objectives in ESGR's Strategic Plan is to obtain statements of support from all identified reserve component employers. To accomplish this objective, ESGR established a 5-year goal (by 2011) to obtain statements of support from 100 percent of the employers it has identified. While ESGR reports the total number of statements of support signed, ESGR does not periodically measure or report the extent to which it is attaining this long-term goal. DOD's characterization of the intent of the ESGR Operational Plan to supplement its Strategic Plan and to include additional effectiveness measures appears consistent with the intent of our recommendation to develop an annual performance plan. We support the department's efforts to develop its annual Operational Plan and to provide additional guidance and measures to assess the extent to which ESGR is accomplishing its goals and objectives.

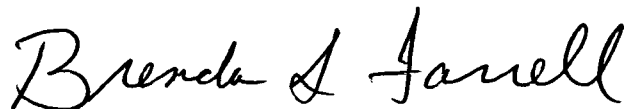
The department also partially concurred with our second recommendation that the Under Secretary of Defense for Personnel and Readiness conduct regular and recurring follow-up activities on outreach efforts to maintain positive working relationships with employers who have previously signed statements of support. Specifically, the department commented that, while it agrees that employer outreach is important, there is a limited number of ESGR staff to conduct such employer outreach efforts and the department believes that an employer who signs a support agreement is less likely to then engage in a contrary practice. As stated in our report, however, ESGR officials that we spoke with during the engagement agreed that additional follow-up efforts with employers would be beneficial toward maintaining employer support subsequent to an employer signing a statement of support. We also continue to believe that periodic and consistent outreach to employers will help DOD to fully attain its goal of both gaining and maintaining support from employers.

Lastly, the department also partially concurred with our third recommendation that the Under Secretary of Defense for Personnel and Readiness develop initiatives to specifically conduct outreach efforts to small businesses that employ reservists. Specifically, DOD commented that it believes the challenges small business owners may face when a reservist-employee is absent to perform military duty are beyond the scope of responsibilities which are under ESGR's purview. As stated in our report, however, small businesses that employ reservists face a number of specific and unique challenges when a reservist-employee is called to perform active military duty.

Further, as previously mentioned in our report, ESGR's strategic plan states that it shall improve working relationships with employers by designing tailored products to meet their specific needs. We continue to believe that, for ESGR to effectively perform its mission of gaining and maintaining employer support, it needs to establish mechanisms to assess and address these unique challenges facing small businesses.

We are sending copies of this report to the Secretary of Defense; the Secretaries of the Army, Navy, and Air Force; the Employer Support of the Guard and Reserve; and the Defense Manpower Data Center. We will also make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

Should you or your staff have any questions on the matters discussed in this report, please contact me at (202) 512-3604 or farrellb@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in enclosure III.

A handwritten signature in black ink that reads "Brenda S. Farrell". The signature is written in a cursive, flowing style.

Brenda S. Farrell
Director, Defense Capabilities and Management

List of Congressional Committees

The Honorable Carl Levin
Chairman
The Honorable John McCain
Ranking Member
Committee on Armed Services
United States Senate

The Honorable John F. Kerry
Chairman
The Honorable Olympia J. Snowe
Ranking Member
Committee on Small Business and Entrepreneurship
United States Senate

The Honorable Ike Skelton
Chairman
The Honorable Duncan L. Hunter
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Nydia M. Velázquez
Chairwoman
The Honorable Steve Chabot
Ranking Member
Committee on Small Business
House of Representatives

Scope and Methodology

To address our objectives we obtained, reviewed, and analyzed available documents, reports, laws, regulations, surveys, and other information related to promoting positive working relationships between reservists and their employers.

We interviewed officials within the Office of the Assistant Secretary of Defense for Reserve Affairs (RA), Headquarters Marine Corps (Manpower and Reserve Affairs), Office of Chief of Navy Reserve, United States Army Reserve, National Committee for Employer Support of the Guard and Reserve, National Guard Bureau, Army National Guard, Defense Manpower Data Center, United States Air Force Manpower and Reserve Affairs, and joint Deployment Support and Reintegration Program. We also interviewed Employer Support of the Guard and Reserve Program Support specialists and executive directors.

In addition, we reviewed our prior work on reserve forces and issues related to the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. A list of Related GAO Products is included in enclosure IV. We also coordinated with the DOD Office of the Inspector General to discuss ongoing work related to this project.

To evaluate the extent to which DOD has taken steps to inform reservists of their obligations and responsibilities to their employers to provide timely notification of a call to active duty, we obtained information describing DOD active and reserve component procedures and processes in place to inform reservists of their responsibilities and obligations to their employers. This includes procedures regarding advance notification by reservists to employers of upcoming mobilizations as well as the reservists' rights and responsibilities under USERRA. To determine the effectiveness of DOD's programs to inform reservists of their rights and responsibilities to their employers, we also analyzed DOD Status of Forces Surveys on areas related to advance notice to reservists and other matters concerning reserve component members. We assessed these survey data for reliability and found them to be sufficiently reliable for the purposes of this report. We held interviews with key DOD officials and established a nonprobability sample of employers of reservists. Because this is a nonprobability sample of employers, the results of these interviews are not generalizable to the general population of reservist employers. We conducted focus groups with reservists in three states to discuss their responsibilities regarding the amount of advance notice being provided both to reservists by DOD and to employers by reservists. This was also a nonprobability sample and the results from these focus groups are not generalizable to the population of reservists. To select participants for our focus groups, we chose from units with the following characteristics: (1) Army National Guard and Army Reserve units (which comprise the majority of total reservists), (2) reserve units consisting of 100 or more personnel, (3) units that have deployed and redeployed back to the United States since January 1, 2007, and (4) units that conducted weekend drills during the period May 5, 2008, through July 28, 2008. We conducted a total of 10 focus groups in three states (Kentucky, North Carolina, and Virginia) with a total of 50 volunteer participants. We selected employers of reservists for our structured interviews using DOD's civilian employee information (CEI) database. We selected employers from this database to

include a mix of both small and large companies based on number of employees, both governmental agencies and private/nonprofit companies, civilian employers of reservists from each reserve component, and employers in states with a heavy concentration of reservists. We selected from those employers deemed to have a high degree of automated matching accuracy by Dun & Bradstreet.²¹ From the employers who met these above criteria, we randomly selected 77 employers to contact, and ultimately completed interviews with 11 employers. We found this data to be sufficiently reliable for our selection purposes.

To determine DOD's initiatives to support reservist/employer relations, we met with and conducted interviews with knowledgeable officials at DOD, including Employer Support of the Guard and Reserve, National Guard Bureau, and reserve components. To learn more about ESGR's roles and responsibilities in implementing programs that promote positive working relations between reservists and their employers, we also conducted interviews with several ESGR field representatives. To determine the extent to which DOD has taken initiatives to promote positive working relations between reservists and their employers, we obtained documents, policies, and procedures; information on DOD's employer outreach efforts; and memoranda of understanding addressing the current activities to help promote and strengthen positive working relationships between reservists and their civilian employers. We specifically questioned employers in our structured interviews on their relationships with their respective reserve employees, and what suggestions, if any, they had to strengthen reservist employer relations.

To determine the extent that there has been a reduction in the hiring of reservists after September 11, 2001, or any change in any of DOD's policies relating to reservists after September 11, 2001, we requested data from the Department of Labor, Defense Manpower Data Center, and Employer Support of the Guard and Reserve. We specifically questioned participants in our focus groups and structured interviews on any changes in hiring practices or policies that have occurred.

We conducted this performance audit from April 2008 through August 2008 in accordance with generally accepted government accounting standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²¹ Dun & Bradstreet, an organization that maintains a database of more than 130 million business records, reviews DOD's civilian employer data and generates a maximum confidence code denoting an entry's degree of accuracy. For the purposes of our review, entries with a confidence code of 7 or higher were considered more reliable.

Comments from the Department of Defense



ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, DC 20301-1500

AUG 14 2008

Ms. Brenda S. Farrell
Director, Defense Capabilities and Management
US Government Accountability Office
441 G Street, N. W.
Washington, DC 20548

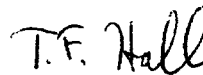
Dear Ms. Farrell:

Enclosed is the Department of Defense (DoD) response to the GAO Draft Correspondence, GAO-08-981R, *"MILITARY PERSONNEL: Improvements Needed to Increase Effectiveness of DoD's Programs to Promote Positive Working Relationships Between Reservists and Their Employers"* dated August 5, 2008 (GAO Code 351205).

The Department appreciates the opportunity to review and comment on the draft report. General comments on the GAO draft report and detailed comments on the GAO recommendations are enclosed. The Department non concurs with one recommendation and partially concurs with three recommendations in the draft report.

For further questions concerning this report, please contact my action officer, Lieutenant Colonel Michelle Barrett. She may be contacted by e-mail at michelle.barrett@osd.mil or by telephone at (703) 380-9262.

Sincerely,

A handwritten signature in black ink that reads "T. F. Hall".

T. F. Hall

Enclosure:
As stated



**GAO DRAFT REPORT – DATED August 5, 2008
GAO CODE 351205 / GAO-08-981R**

"MILITARY PERSONNEL: Improvements Needed to Increase Effectiveness of DoD's Programs to Promote Positive Working Relationships Between Reservists and Their Employers"

DEPARTMENT OF DEFENSE GENERAL COMMENTS

The GAO acknowledges the Employer Support of the Guard and Reserve Strategic Plan and the myriad Employer Support of the Guard and Reserve programs to inform reservists and employers of their rights and obligations under the Uniformed Services Employment and Reemployment Right Act. These outreach efforts are designed to gain and maintain the support of employers for their employees who serve in the Guard or Reserve.

It is not surprising that GAO found no studies on the extent to which employers hiring practices might have changed. The Uniformed Services Employment and Reemployment Rights Act includes a discrimination provision which prohibits an employer from basing a hiring decision on an individual's service in a Uniformed Service or an obligation to serve in the Uniformed Services. However, we suggest that complaints filed by individuals claiming discrimination would provide a meaningful way of determining if employees or potential employees believe an employer is engaged in a discriminatory practice with respect to hiring. The Department of Labor may be able to provide data on the number of complaints filed with that agency involving discrimination. The Employer Support of the Guard and Reserve also maintains a database on the types of inquiries they receive and mediation conducted by Employer Support of the Guard and Reserve.

The Department does not agree with the statement that Employer Support of the Guard and Reserve does not collect data to assess the effectiveness of its efforts and does not measure the efficiency and effectiveness of its efforts. The Employer Support of the Guard and Reserve Strategic Plan specifically contains measurable objectives, and considerable effort has been undertaken by Employer Support of the Guard and Reserve to quantify and measure its activities in order to evaluate returns on investments. The quarterly reports produced by the organization, together with a Management Control Plan, provide a clear performance plan for leadership, and adjustments are made on a regular basis to achieve ever-better results. As stated by GAO itself, it is difficult to establish a direct causal link between Employer Support of the Guard and Reserve efforts and their effectiveness, but based on the activities conducted by Employer Support of the Guard and Reserve and comparing the number of cases filed with the Department of Labor to the actual utilization of Guard and Reserve members, the Department believes that Employer Support of the Guard and Reserve and its over 4,200 volunteers are making a positive impact in fostering positive relationships between Reserve Component members and their employers.

We also noted that GAO only cited one memorandum on the employment of Reserve Component members—the memo issued on January 19, 2007, by the Secretary of Defense. But GAO did not reference several other DOD policy documents in which the Department explicitly provided guidance on the reasonable employment of reservists. These policy documents were designed to maintain employer support, and to remind Reserve Component members of the requirement to provide notice to their employers. These include the Under Secretary of Defense for Personnel and Readiness Mobilization/Demobilization memoranda issued each time the President authorizes the involuntary call-up of Reserve Component members and the Under Secretary of Defense for Personnel and Readiness memo of July 19, 2002, which prescribes guidance on the judicious and prudent use of National Guard and Reserve personnel. Further, in the September 20, 2001 memorandum, the Under Secretary of Defense for Personnel and Readiness limited the initial period of mobilization to 12 months with a 24-month cumulative limit. While conditions on the ground resulted in the Secretary of Defense granting an exception to the 12 month limit for the Army, it nonetheless remained the policy until Secretary Gates issued his new policy on force utilization on January 19, 2007, as noted in the correspondence.

We have one comment on a technical issue: the Department is not aware of the role that the Department of Veterans Affairs has in Uniformed Services Employment and Reemployment Rights Act as stated on page 6 of the draft report.

DEPARTMENT OF DEFENSE COMMENTS TO THE RECOMMENDATIONS

RECOMMENDATION 1: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Personnel and Readiness) to include questions in DoD's Status of Forces Surveys for Reserve Component members to determine: (1) the amount of notification being provided by Service members to their civilian employers prior to activation; and (2) the extent to which mobilization notices are provided verbally versus in written form.

DOD RESPONSE: Nonconcur. While this information may be of some interest, it would provide information that is beyond the Department's control. The Department uses Status of Forces Surveys of Reserve Component members to help assess the effectiveness of its efforts, but the responsibility for employer notification ultimately rests with the Service member and should not be used to judge the effectiveness of outreach efforts. The following are examples of the types of questions included in the Status of Forces Surveys of Reserve Component members that are useful to the Department:

- the number of Uniformed Services Employment and Reemployment Rights Act briefing members received;
- additional information on Uniformed Services Employment and Reemployment Rights Act that would be helpful;
- the best time to provide information on Uniformed Services Employment and Reemployment Rights Act;
- satisfaction with Employer Support of the Guard and Reserve assistance;

Enclosure II

- the degree of employer support;
- the type of support provided by an employer;
- their reemployment experiences following activation;
- problems experienced despite Uniformed Services Employment and Reemployment Rights Act; and
- the type of assistance reservists sought.

While the Uniformed Services Employment and Reemployment Rights Act only requires advance notice be given employers without specifying the form (verbal or written) or the timeliness of the notice, the Department, through numerous outreach initiatives and policies has encouraged Reserve Component members to notify their employers as early as possible about their mobilizations, and will continue to engage in education efforts to foster two-way communication between Reserve Component members and their employers.

The Department has a responsibility to inform reservists and the employers of reservists of their obligations under the Uniformed Services Employment and Reemployment Rights Act. The Uniformed Services Employment and Reemployment Rights Act requires a member to provide notice, written or verbal, to his or her employer. As stated in the GAO correspondence, the Department has exceeded its obligation by strongly encouraging reservists to provide that notice in writing. Also, for reservists to provide notice to their employers, they must know when they will be required to perform military duty. The correspondence acknowledges that the Department has done that. Further, as mobilizations have become more predictable, the Department has been able to increase the amount of notice that it provides reservists of a pending period of military service. But it is the individual reservist's responsibility to notify his or her employer. While having data on how far in advance an employer receives notice is interesting, there is little action the Department can take despite being armed with that information. The correspondence states that "Until DOD begins developing procedures to collect data regarding both the amount, as well as the type, of advance notice being given by most reservists to their civilian employers, it may be unable to measure the effectiveness of its efforts to inform servicemembers of their benefits and obligations under the Uniformed Services Employment and Reemployment Rights Act or determine whether additional measures are required." This implies that these two data elements would be the determining factors in whether Employer Support of the Guard and Reserve efforts to inform reservists of their rights and benefits under Uniformed Services Employment and Reemployment Rights Act are successful. The Department disagrees with this assertion. As previously stated, Employer Support of the Guard and Reserve has several ways to determine the effectiveness of its outreach efforts. While the Department will continue to emphasize and encourage reservists to provide notice as far in advance as possible and to provide notice in writing, this remains a responsibility of the member and should not be used as the basis for judging the effectiveness of Employer Support of the Guard and Reserve outreach efforts.

Of note, according to a 2008 survey of employers by the Institute for Defense Analyses and Employer Support of the Guard and Reserve Customer Service Center data, employers have not indicated lack of early notification as a significant challenge in their support for the military service of their employees.

RECOMMENDATION 2: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Personnel and Readiness) to establish an annual performance plan that develops and implements performance measures on how well Employer Support of the Guard and Reserve is achieving its goals.

DOD RESPONSE: Partially Concur. The GAO did not acknowledge the efforts and performance measures Employer Support of the Guard and Reserve has in place to gauge its effectiveness. Employer Support of the Guard and Reserve, a Department of Defense organization with a mission to gain and maintain employer support for Guard and Reserve service by recognizing outstanding support, increasing awareness of the law, and resolving conflicts through mediation, serves as the DoD's focal point in managing the Department's relations with reservists and their civilian employers.

The Employer Support of the Guard and Reserve Strategic Plan specifically contains measurable, achievable, realistic, and time-sensitive objectives and considerable effort has been undertaken to quantify and measure its activities in order to evaluate returns on investments. Employer Support of the Guard and Reserve documents the number of Bosslifts, the number of mailings, strategic partnership gained, employer briefings and recipients of awards. Measures such as these must be used against a standard to determine their effectiveness. This is accomplished by analyzing the number and type of requests for information and complaints Employer Support of the Guard and Reserve receives from reservists or filed with the Department of Labor. The quarterly reports produced by the organization, together with a Management Control Plan, provide a clear performance plan for leadership. This process allows Employer Support of the Guard and Reserve to make appropriate adjustments on a regular basis to achieve ever-better results. Further, Employer Support of the Guard and Reserve is currently engaged in an effort to supplement its Strategic Plan with an annual Operational Plan to provide additional guidance and measurements.

Since the terrorist attacks of September 11, 2001 and the subsequent Global War on Terrorism, Employer Support of the Guard and Reserve has ramped up its activity in step with the increased mobilization of the Reserve Component while providing a dedicated and valuable service to hundreds of thousands of Reserve Component members and their employers. Over the years, focused outreach and communications efforts conducted by Employer Support of the Guard and Reserve have resulted in greater awareness and support by employers for the military service of their employees.

Data from the Employer Support of the Guard and Reserve Ombudsman Service indicate that the total number of contacts to Employer Support of the Guard and Reserve have increased from 5,298 in FY05 to 7,765 in FY06 to 13,116 in FY07 to 8,575 in FY08 (as of June 30), noting increased awareness of Employer Support of the Guard and Reserve among our customers. Meanwhile, the number of actual cases has decreased, from 4,682 in FY05 to 3,152 in FY06 to 2,374 in FY07 to 1,988 in FY08 (as of June 30). This underscores the effectiveness of Employer Support of the Guard and Reserve outreach to and education of employers and Reserve Component members across the country.

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Concurrently, the number of employers of Guardsmen and Reservists who sign statements of support has increased, from 10,909 in FY05 to 11,396 in FY06 to 20,644 in FY07 to 27,770 in FY08 (as of June 30).

RECOMMENDATION 3: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Personnel and Readiness) to conduct regular and recurring follow-up activities on outreach efforts to maintain positive working relationships with employers who have previously signed statements of support.

DOD RESPONSE: Partially Concur. The Department of Defense recognizes the importance of employer support and has provided increasing levels of support for Employer Support of the Guard and Reserve since 2001. Two factors are important when looking at the issue of follow-up activities. First, there is a limited Employer Support of the Guard and Reserve staff and they must prioritize their efforts. Second, it could be assumed that an employer who signs a support agreement is less likely to then engage in a contrary practice. But that does not mean that follow up or reengagement is unnecessary; it is. Since the availability of the Civilian Employer Information data, Employer Support of the Guard and Reserve has sought to put into place processes and programs to conduct regular, recurrent, and focused outreach to known employers of Reserve component members. Since 2005, Employer Support of the Guard and Reserve has sent an annual direct mail informational brochure to all known employers of Reserve component members and plans to continue this mailing annually. Also, Employer Support of the Guard and Reserve plans to supplement this direct outreach with additional direct outreach to Reserve Component members, and to specific subsets of the employer community, such as small business owners or specific industries. Further, the Employer Support of the Guard and Reserve Statement of Support Program is built around the concept of “gaining and maintaining” support through an initial symbolic statement of support signing and subsequent maintenance of contact at the local level. Employer Support of the Guard and Reserve also plans, as resources are available, to conduct direct mail outreach as well as personal contact to employers who have signed statements of support as a means of maintaining contact and support.

In addition to initiatives noted above, individual services have their own initiatives directly and indirectly related to employer outreach efforts. For example, the National Guard Bureau has partnered directly with Employer Support of the Guard and Reserve for financial support of full-time personnel in each state to assist in outreach efforts. The Army Reserve has established an ambitious employer outreach program aimed at building and maintaining positive “Employer Partnerships” by actively reaching out to employers of Army Reserve Soldiers and Family members. The outreach program seeks to build enduring relationships which encourages employers to hire Soldiers and share the human capital resource. Several partnerships have already been codified in signed Memoranda of Agreements between the Army Reserve and employers and more are planned in the near future. The “Employer Partnership” initiative will continue to be a very important priority for the Army Reserve. The GAO was provided with numerous documents and examples of those initiatives and efforts.

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RECOMMENDATION 4: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Personnel and Readiness) to develop initiatives to specifically outreach to small businesses that employ reservists.

DOD RESPONSE: Partially Concur. GAO cited several challenges a small business owner may face when a reservist-employee is absent to perform military duty. But those are issues that are beyond the scope of responsibilities which are under the purview of the Employer Support of the Guard and Reserve. For several years, the Office of the Assistant Secretary of Defense (Reserve Affairs) has been engaged with and formed a strategic alliance with the Small Business Administration to help Small Business Administration identify and develop programs to assist small business owners with the challenges they may encounter during the absence of a reservist-employee. The most recent example of such a program is the Small Business Administration's recently-established Patriot Express program.

Employer Support of the Guard and Reserve is an information broker to Reserve Component members and their employers regarding the Uniformed Services Employment and Reemployment Rights Act. As the Uniformed Services Employment and Reemployment Rights Act applies to all employers, Employer Support of the Guard and Reserve conducts outreach to all known employers of Reserve Component members. Additionally, Employer Support of the Guard and Reserve has strong working relationships with government, non-profit, and industry groups representing specific employer or industry segments. These relationships foster important "Strategic Partnerships" with Employer Support of the Guard and Reserve. Specifically, Employer Support of the Guard and Reserve has a strong working relationship with the Small Business Administration with whom Employer Support of the Guard and Reserve has conducted joint outreach efforts to increase awareness to small businesses. Employer Support of the Guard and Reserve outreach efforts are geared to provide a baseline information campaign to all Reserve Component members and their employers and to provide additional information to specific industry or employer segments. The National Guard and Army Reserve actively reach out to employers of all sizes and actively seek out "small business" owners in order to build relationships.

Also of note, from the Institute for Defense Analyses study previously referenced, data indicate the lack of significant problems from employers in general, including small businesses specifically, regarding the impact of the military service obligations of their employees.

Enclosure III

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Enclosure IV

Related GAO Products

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